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MAY 04 2007

OFFICE OF PETITIONS

In re Application of
Thomas R. Miller
Application No. 09/270,128
Filed: March 16, 1999
Attorney Docket No. 94.0016

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 9, 2007, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 13 2005. A Notice of Abandonment was mailed on June 20, 2006. In response, on January 9, 2007, the present petition was filed.

The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2).

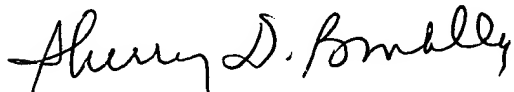
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including the fee of \$790 and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,500; and (3) a proper statement of unintentional delay.

Extensions of time under 37 CFR 1.136 are available only if asked for prior to or with the response. In no case, however, may an applicant respond later than the maximum time period set by statute. Accordingly, if the question of abandonment arises when the provisions of 37 CFR 1.136 can no longer be used, then the application is abandoned when the unextended time for response has expired. Since, no extension of time fees are due on a petition for revival, the

\$1,020 extension fees paid with the present petition are being credited to counsel's deposit account.

This application is being referred to Technology Center AU 2123 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

A handwritten signature in black ink, appearing to read "Sherry D. Brinkley". The signature is fluid and cursive, with the first name "Sherry" being more prominent than the last name "Brinkley".

Sherry D. Brinkley
Petitions Examiner
Office of Petitions